

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

Case No. **1:20-CR-1939 JAP**

-vs-

CHRISTOPHER LEYBA,

Defendant.

ORDER DENYING MOTION FOR FURLOUGH

THIS MATTER is before the Court on defendant Christopher Leyba's Amended Opposed Emergency Motion for Furlough to Visit Daughters and Family. Doc. 23. Mr. Leyba is seeking release from custody for 24 hours purportedly to attend to his two daughters who were involved in a terrible car accident. *See id.* According to the newspaper report, one of the girls who Mr. Leyba claims was his daughter was killed in the accident, and the other was seriously injured. *See id.* Both the United States and U.S. Pretrial Services oppose the motion. *See id.* at 2; Doc. 24. The Court denies Mr. Leyba's motion for the following reasons.

First, even without considering the United States' response to Mr. Leyba's motion, the Court cannot find that Mr. Leyba is neither a flight risk nor a danger to the community, even if he were released only for 24 hours. Mr. Leyba has a lengthy and troubling criminal history, which includes convictions on multiple drug charges, shooting at or from a motor vehicle, driving while intoxicated, receiving a stolen firearm, being a felon in possession of a firearm, attempted breaking and entering, and escape. *See* Doc. 8. He also repeatedly violated his terms

of supervised release while on federal supervision, and his conditions of probation while on state probation. *See id.* The Court found on October 28, 2020 that Mr. Leyba is both a serious flight risk and a danger to the community, and the tragic accident referenced in the newspaper article attached to defendant's amended motion does not change the Court's assessment.

Second, the United States' response to Mr. Leyba's amended motion calls into serious question whether Mr. Leyba is related to either of the girls he claims are his daughters. Given the United States' response, the Court would not consider releasing the defendant unless and until he presented evidence his paternity at an evidentiary hearing. A hearing is not necessary, however, because the Court still is convinced that Mr. Leyba is both a flight risk and a danger to the community, even if only released for one day. The Court therefore will deny Mr. Leyba's request for a furlough.

IT IS THEREFORE ORDERED that defendant Christopher Leyba's Amended Opposed Emergency Motion for Furlough to Visit Daughters and Family (Doc. 23) is DENIED.

DATED this 31st day of March, 2021.



Laura Fashing
United States Magistrate Judge